



STATE BOARD OF EQUALIZATION

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No. 89/13

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TO COUNTY ASSESSORS:

MOBILEHOME PARK EXCLUSION
CHAPTER 1076, STATUTES OF 1988
(SENATE BILL 1885)

Chapter 1076 of the Statutes of 1988 (Senate Bill 1885) became effective January 1, 1989. This act amends Section 62.1(a) to require that when a mobilehome park is transferred on or after January 1, 1989 to an entity formed by the tenants, at least 51 percent of the tenants must participate in the transaction through the ownership of an aggregate of at least 51 percent of the voting stock of, or other ownership or membership interests in, the entity which acquires the park.

This act also amends Section 62.1(c) to provide that a transfer of stock or an ownership interest in a mobilehome park is a change in ownership of a pro rata portion of the real property of the park, if the park had previously been transferred in a transaction qualifying under Section 62.1(a), but had not been converted to condominium or stock cooperative ownership. The effect of this act is prospective, i.e., on or after January 1, 1989. It must be remembered that the exclusion from the change in ownership provision provided by Section 62.1(a) is operative only until January 1, 1994.

There have been questions raised regarding whether the subsequent transfers of rental spaces to condominium ownership from the entity formed to acquire the mobilehome park under the exclusion provided by Section 62.1(a) are also excluded from change in ownership under this provision. Typically, due to the amount of time needed to subdivide a mobilehome park into condominium ownership, the tenants of a mobilehome park form a nonprofit corporation to purchase the park from the private owner. This transfer is excluded by the provisions of Section 62.1(a). Once the subdivision into condominium ownership is accomplished, the nonprofit corporation then transfers specific rights to prior rental spaces to the tenants who are purchasing them. It is these subsequent transfers that are being questioned. However, because Section 62.1 was enacted to facilitate affordable conversions of mobilehome parks to tenant ownership, and because Section 62.1(e) states that it is the intent of the Legislature to apply subdivision (a) "to all bona fide transfers of rental mobilehome parks to tenant ownership," it is the opinion of the Board that subsequent transfers to the original tenants should be excluded under Section 62.1 as well.

Section 62.1(c) attempts to parallel as closely as possible the tax treatment accorded condominium and stock cooperatives. A perfect match is not possible, however, because the transfer of a share or membership interest in a nonprofit corporation is not the same thing as a transfer of ownership of a condominium or stock cooperative interest which relates to specific identifiable real property. Rather than following the pattern prescribed in Section 65.1(b), which provides for reappraisal of the specific unit or lot transferred as well as a share of the common area, the amendment provides for a straight pro rata adjustment.

This pro rata adjustment is similar to a fractional change of ownership of real property. Upon the transfer of any ownership interest in the entity of either an originally issued share or of an unissued share to a new participant, a change in ownership of a pro rata portion of the real property of the park has taken place. A new base-year value is established for that portion of the real property, the prior base-year value(s) are adjusted, and appropriate supplemental assessments should be processed.

This bill also adds Section 2188.10 to the Revenue and Taxation Code. It would require the assessor, within the appropriate conditions, to separately assess the pro rata portion of the real property of a mobilehome park which changes ownership pursuant to Section 62.1(c) in a manner similar to existing provisions for the separate assessment of certain timeshare interests. One of the conditions is for the governing board of the mobilehome park to make a request for separate assessment; otherwise, the assessor merely makes change of ownership assessments to the owning entity.

The provisions for the separate assessment of a pro rata portion of the mobilehome park which changed ownership pursuant to Section 62.1(c) permit the assessments and related taxes to be separately identified on the tax bill sent to the owning entity and provides for the collection of the separately identified share of taxes and any processing fee from the owner of the pro rata portion of the property which changed ownership. This collection is the responsibility of the mobilehome park governing board, however, since the total taxes, as a matter of law, are a lien on the entire park (see 2188.10(f)).

I hope this information proves helpful. If you have additional questions, please feel free to contact our Technical Services Unit at (916) 445-4982.

Sincerely,



Verne Walton, Chief
Assessment Standards Division

VW:wpc
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